

PTO/SB/21 (08-03)

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**TRANSMITTAL  
FORM***(to be used for all correspondence after initial filing)*

Application Number	09/998,333
Filing Date	December 3, 2001
First Named Inventor	Kathleen D. DANENBERG
Art Unit	1637
Examiner Name	Jeffrey Siew
Attorney Docket Number	11220/146

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Total Number of Pages in This Submission

12

**ENCLOSURES (check all that apply)**☒ Fee Transmittal Form☐ Fee Attached☒ Amendment / Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Response to Missing Parts/  
Incomplete Application☐ Response to Missing  
Parts under 37 CFR  
1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a  
Provisional Application☐ Power of Attorney, Revocation  
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s)☐ After Allowance Communication to  
Group☐ Appeal Communication to Board of  
Appeals and Interferences☐ Appeal Communication to Group  
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s)  
(please identify below):**RESPONSE TO RESTRICTION  
REQUIREMENT/PRELIMINARY  
AMENDMENT**

Remarks

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**Firm  
or  
Individual name

Teresa A. Lavenue Reg. No. 47,737

Signature

Date

October 24, 2003

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

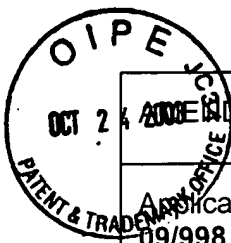
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Signature

Date

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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1637\$

AMENDMENT TRANSMITTAL LETTER		Docket Number: <b>11220/146</b>	
Application Number <b>09/998,333</b>	Filing Date <b>December 3, 2001</b>	Examiner <b>Jeffrey Siew</b>	Art Unit <b>1637</b>
Invention Title <b>METHOD OF DETERMINING A CHEMOTHERAPEUTIC REGIMEN BY ASSAYING GENE EXPRESSION IN PRIMARY TUMORS</b>		Inventors:  <b>Kathleen D. DANENBERG</b>	

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Transmitted herewith is: (1) Amendment Transmittal, (2) Response to Restriction Requirement and (3) Preliminary Amendment

1. The filing fee has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT NUMBER EXTRA	RATE (\$)	FEE (\$)
TOTAL CLAIMS	19	minus	20	0	9.00	0.00
INDEPENDENT CLAIMS	5	minus	3	2	43.00	86.00
MULTIPLE DEPENDENT CLAIM ADDED					290.00	145.00
				TOTAL		86.00
If applicant is a small entity under 37 C.F.R. §§ 1.9 and 1.27, then divide total fee by 2, and enter amount here.						
						TOTAL 231.00

The Commissioner is hereby authorized to charge any extra claims fee and any underpayment or credit for overpayment to Kenyon & Kenyon's **Deposit Account No. 11-0600** for:

- a. Any additional filing fees required under 37 C.F.R. § 1.16.
- b. Any patent application processing fees under 37 C.F.R. § 1.17.

A duplicate of this sheet is attached.

Date: October 24, 2003

  
By: Teresa A. Lavenue  
Registration No. 47,737

Kenyon & Kenyon  
Suite 700, 1500 K Street, NW  
Washington, DC 20005-1257  
(202) 220-4200  
473284



Docket No.: 11220/146

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor: Danenberg, Kathleen D.

Serial No.: 09/998,333

Filing Date: December 3, 2001

For: METHOD OF DETERMINING A  
CHEMOTHERAPEUTIC REGIMEN BY  
ASSAYING GENE EXPRESSION IN  
PRIMARY TUMORS

Art Unit: 1637

Examiner: Jeffrey Siew

Customer No.: 23838

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**RESPONSE TO RESTRICTION REQUIREMENT AND  
PRELIMINARY AMENDMENT**

S I R:

This is in response to the Communication from the Examiner mailed September 24, 2003 setting forth a shortened statutory response period of one month. Accordingly, this response is due on or before October 24, 2003.

The Examiner requires restriction of a single tumor gene determinant of the following invention:

- I. Claims 1-16, drawn to a method of determining a chemotherapeutic regimen using either EGFR, DPD or TS gene determinants, classified in class 435, subclass 6.

10/28/2003 TLUU11 00000008 110600 09998333

01 FC:2201  
02 FC:2203

86.00 DA  
145.00 DA

Applicant elects without traverse tumor gene determinant EGFR for prosecution in the present application, including claims 1-2, 5, 6, 9, 10, 13, and 16, classified in class 435, subclass 6, for prosecution in the present application. Applicant reserves the right to pursue the non-elected claims in divisional applications.

Prior to examination of the above-identified application, please make the amendment noted below:

**Amendment to the Specification** begins on page 3 of this paper.

**Amendments to the claims** begin on page 4 of this paper.

**Remarks** begin on page 10 of this paper.

An **Appendix** including a copy of the Declaration and Power of Attorney is attached following page 10 of this paper.